

INITIAL STATEMENT OF REASONS

FOR
PROPOSED BUILDING STANDARDS
OF THE
CALIFORNIA BUILDING STANDARDS COMMISSION (CBSC)

REGARDING THE CALIFORNIA ADMINISTRATIVE CODE,
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1

STATEMENT OF SPECIFIC PURPOSE, PROBLEM, RATIONALE and BENEFITS:

(Government Code Section 11346.2(b)(1) requires a statement of specific purpose of each adoption, amendment, or repeal and the problem the agency intends to address and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem the agency intends to address for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute.)

Chapter 1 of the California Administrative Code contains regulations that explain the various functions of CBSC as it works to develop, adopt, and publish building standards in Title 24, California Code of Regulations. It also includes requirements for the proposing agencies and adopting agencies, involved in the development of building standards.

The general purpose of the following proposed actions is principally intended to update, clarify and make minor corrections to the provisions of the chapter that governs activities of the California Building Standards Commission (CBSC), its employees, committees, and state agencies involved in the development and/or adoption of Title 24, California Code of Regulations, known as the California Building Standards Code. The proposal includes the following:

- Updates and minor revisions to abbreviations and definitions;
- Repeal of the CBSC Conflict of Interest disclosure categories and make-up of commission staff due to inclusion in the Department of General Services under the Governor's recent reorganization.
- Code Advisory Committee member clarifications;
- Adds provisions for proposing state agencies to receive recommendations for developing green building standards from non-proposing state agencies that have expertise in green building in accordance with Health and Safety Code (HSC) §18930.5; and
- The addition of request for refund of fees relative to the Building Standards Administration Special Revolving Fund, HSC §18931.6.

The specific rationale and benefit for this action is to meet the requirements of Health and Safety Code (HSC) §18928 and 18934.5, which assures that the latest building regulations are implemented for occupancies under CBSC authority and those under the authority of location jurisdictions. It is justified by criteria (3), in the public interest, of HSC §18930(a).

All of the following statements of reason explaining the proposed changes are in the order of the proposed adoption shown in the Express Terms (proposed regulatory language) available with the documents associated with this rulemaking proposal.

ARTICLE 1 GENERAL

ITEM 1. CBSC proposes to amend the abbreviations for clarity; deleting unnecessary duplication and abbreviations that are no longer referenced.

1-101 Abbreviations

As prescribed in Health and Safety Code (HSC) §18940.5, the California Building Standards Commission (CBSC) has been directed, to the extent feasible, to reference or reprint green building standards (CALGreen) in the relevant portions of Title 24, California Code of Regulations. In accordance with this mandate, CBSC proposes to identify green building standards under its authority with a new acronym (BSC-CG) in an effort to provide easy application clarification for code users. The abbreviation, CGBSC, previously identified as the acronym for the California Green Building Standards Code is not utilized, and will be repealed and replaced by BSC-CG for the purposes of this Code.

Additional updates to the abbreviations section include relocating and amending the 'Note' reference from the end of the abbreviations to the front of the section for clarification purposes. By placing 'Note' at the front of the section the need for 'see Note' throughout the abbreviations section will no longer be necessary; and to remove and/or update those abbreviations that are no longer in use and/or were incorrect. Further, revisions were made in the interest of consistency.

ITEM 2.

1-103 Definitions

CBSC proposes to clarify the introductory paragraph for definitions with minor non-regulatory edits. These edits are intended to simplify the text for the reader.

ITEM 3.

ARTICLE 2 DUTIES AND RESPONSIBILITIES OF THE BUILDING STANDARDS COMMISSION, THE EXECUTIVE DIRECTOR, COMMISSION PERSONNEL AND RESOURCES

Pursuant to the Governor's recent reorganization plan, CBSC is currently a commission within the Department of General Services (DGS), under the Government Operations Agency.

Section 1-205. Conflict of interest disclosure.

CBSC is repealing this section due to inclusion of this information within the DGS conflict of interest disclosure. DGS is amending its conflict of interest disclosure in §1194 of Title 2, California Code of Regulations to include CBSC staff and positions.

Section 1-207. Disclosure categories.

CBSC is repealing this section due to inclusion of this information within the DGS conflict of interest disclosure categories. DGS is amending its conflict of interest disclosure categories in §1194 of Title 2, California Code of Regulations to include CBSC staff and positions.

ITEM 4.

Section 1-209. Code advisory committees.

CBSC proposes to amend Code Advisory Committee (CAC) positions to allow the appointment of an electrical inspector at the discretion of the Commissioners. The requirement for an electrical engineer position on respective CAC's has been modified to include the option of filling the role with an electrical inspector. Through the CAC application process the Commission received insufficient response of interested electrical engineers. With the addition of Electrical Inspector as an option for this position it will broaden the field of available applicants while maintaining knowledge of subject matter.

A number of Code Advisory Committee applicants have applied for the position of Building Official when in fact they were not serving in the official capacity of a full time Building Official and/or were functioning in the role as a consultant. The footnote for this classification, for all Code Advisory Committees is being amended to clarify that a Building Official may be a consultant but must be serving in the official capacity of a full-time Building Official for the local jurisdiction.

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ITEM 5. The following section was reformatted and minor editorial changes were made as a result of feedback from another state agency after the Building, Fire & Other code advisory committee meeting on July 28, 2015, which recommended Approve as Submitted.

**ARTICLE 4
RULEMAKING FOR THE ADOPTION OF BUILDING
STANDARDS BY PROPOSING AGENCIES**

The California Building Standards Commission (CBSC) proposes to add administrative procedures as prescribed in Health and Safety Code (HSC) §18930.5, which specifies that the commission and other state agencies that propose green building standards shall allow for input by other state agencies that have expertise in green building subject areas. The proposed requirements for input by other state agencies is necessary as the development for proposed green building standards must be accomplished during the statutorily mandated 18-month, triennial or intervening, code adoption cycles. The proposed process assures adequate time for public notice and participation, technical review, recommendations by advisory bodies in accordance with California Building Standards Law, the Administrative Procedure Act, and applicable administrative regulations, and establishes a universally efficient and workable input process for the suggested changes.

The proposed state amendments to the California Administrative Code address the submittal requirements, the process by which other state agencies shall submit recommendations for green building standards to proposing state agencies, and how the submittals are handled by the proposing state agency.

1-404. State agency participation for green building standards.

This section specifies that state agencies that have the authority to propose green building standards shall allow for input by other agencies with expertise in green building subject areas but do not have the authority to propose building standards. Suggestions for proposed changes need to align with the triennial and intervening code adoption cycles and the proposing state agency's rulemaking schedule in order to ensure that both the proposing state agency and the state agency making recommendations have a reasonable and manageable course of action to advance the suggested changes. The CBSC triennial and intervening code adoption cycles are established in state law.

CBSC further defined the section title, 'State agency participation,' by adding 'green building standards' due to feedback from another state agency after the July 28, 2015 Building, Fire and Other CAC meeting.

(a) Timing for submittal.

This section proposes the time frame for submitting suggested changes for green building subject areas shall be determined by the proposing state agency that has the authority for a specific occupancy. This is necessary in order to afford the proposing state agencies sufficient opportunity to analyze the suggested change and determine when, based upon staffing and available resources, workload, or other needs of immediacy, the proposing state agency may advance the suggested changes. Additionally, proposing state agencies have specific statutory authority for specific occupancy classifications. As an example, the Department of Housing and Community Development has authority to develop and propose building standards affecting residential occupancies such as hotels, motels, single-family dwellings, and multi-family dwellings.

(b) Mandatory or voluntary standards.

As stipulated in HSC §18930.5 state agencies that make suggested changes for green building standards to proposing state agencies must specify whether the suggested changes are intended as mandatory or voluntary green building standards. This process is necessary to assist proposing state agencies in identifying future considerations concerning green building standards.

Post Building, Fire and Other CAC meeting on July 28, 2015, this section title was further defined with the addition of 'standards'. This change was a result of feedback from another state agency.

(c) Submittal documents.

Administrative regulations were developed in accordance with HSC §18930.5 in order to provide uniform submittal requirements for the state agencies that have expertise in the area of green building subject areas. The submittal requirements establish the specific criteria and required support documentation for the state agencies that make suggested changes. These guidelines will ensure that the proposing state agency is provided with reliable data and documentation, and will allow for the other state agencies with expertise in areas of green building to aid the proposing state agency in evaluating the merits of recommendations.

(d) Availability to the public.

This provision aligns with the transparent regulatory practices that CBSC already provides in its existing rulemaking and code development processes. This process is rooted in the requirements of Building Standards Law, the Administrative Procedure Act, and existing administrative regulations. If a proposing state agency determines that a suggested change will be advanced as a green building standard in the appropriate rulemaking cycle the proposing state agency would make the proposed building standard available to stakeholders and the public in accordance with the rulemaking process administered by the CBSC.

(e) State agency declines to proceed.

This provision allows for each proposing state agency to determine whether a suggested change that is submitted for consideration is an appropriate and relevant amendment to the occupancy for which they have authority as provided for in statute. Additionally, it gives the proposing state agency the right to refuse for cause, to proceed with a suggested change. The proposing state agency is responsible for the proposal of a suggested change when deciding to proceed and for any data, analysis or information that was relied upon in order to properly vet the proposal before stakeholders, code advisory committees(s), the commission, and the general public. Health and Safety Code (HSC) §18930.5 does not require that suggested changes be accepted and/or incorporated into green building standards. HSC §18930.5 specifies that other state agencies may submit input in the form of suggested changes for consideration by the proposing state agency. This proposed regulation clarifies that this is the case and qualifies circumstances when the proposing state agency may decline to proceed with suggested changes.

The section title was modified after the Building, Fire and Other CAC meeting on July 28, 2015 due to feedback from another state agency. The word 'may' was removed from the title.

(f) Rulemaking participation.

This provision allows for the proposing state agency to request necessary assistance from the suggesting state agency with expertise in green building subject areas that recommended a change as the subject matter expert. If a recommendation is carried forward, the proposing state agency may call upon the suggesting state agency for help in developing specific code language, and the initial statement of reasons as well as any additional support documentation and final analysis necessary to successfully advance the rulemaking. The suggesting state agency may also be relied upon to assist with and participate in pre-cycle workshops, make presentations at code advisory committee and commission meetings, and assist with answering comments received during public comment periods. The proposing state agency may call upon the suggesting state agency at its discretion with an expectation of assistance.

ITEM 6. This section was reformatted after the Building, Fire and Other CAC meeting on July 28, 2015 due to feedback from another state agency. The content remains intact from the initial submittal.

**ARTICLE 5
CITY, COUNTY, AND CITY AND COUNTY BUILDING PERMIT FEES**

1-503. Definitions. . . .

1-509. Request for Refund of Fees. Due to changes in local jurisdiction personnel, computer error and/or other unforeseen circumstances, the request for refunds from the Building Standards Administration Special Revolving Fund (BSASRF) is an ongoing aspect of managing the fund. The California Building Standards Commission (CBSC) proposes to amend Article 5 with the addition of this section, which will provide requirements for local jurisdiction personnel to follow if a request for a refund of fees is necessary.

- (a)** This subsection specifies that a request for refund of fees shall be submitted in writing to CBSC and shall include support documentation as follows. This step is necessary in order to determine if a request for refund of fees is justified and verifiable.
 - 1. This requirement mandates that a detailed summary of the circumstances be provided in a chronological sequence that will clearly explain the need for a refund. A detailed summary of

events is necessary in order to verify that a request for refund of fees is verifiable and substantiated.

2. Documentation in the form of reports, permits and other verifiable records are essential in order to substantiate the events necessitating a refund.
3. Documentation by the local jurisdiction will provide formal certification that the refund claim is accurate and true.

(b) CBSC will acknowledge to the local jurisdiction the receipt of the refund request within 45 days of receipt. This acknowledgement will identify if any additional documentation is required. In that written notice the local jurisdiction receives confirmation of that receipt and is advised of the need for additional documents or information to substantiate the refund request.

(c) Resolution of a refund request would be contingent upon the local jurisdiction's fee report and payment history. In the event a city, county, or city and county is behind on quarterly fee reports and payments, the local government must make its BSASRF filings current before a valid refund request would be processed. This requirement reinforces the responsibility of the local jurisdiction to file quarterly fee reports and respective fees in a timely fashion pursuant to existing statute.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENTS:

(Government Code Section 11346.2(b)(3) requires an identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the regulation(s).

There were no formal studies or reports used as the basis for the proposed amendments to the California Administrative Code.

STATEMENT OF JUSTIFICATION FOR PRESCRIPTIVE STANDARDS:

(Government Code Section 11346.2(b)(4) requires a statement of the reasons why an agency believes any mandates for specific technologies or equipment or prescriptive standards are required.)

The proposed administrative changes do not mandate any specific technologies or equipment, and do not require any prescriptive standards.

CONSIDERATION OF REASONABLE ALTERNATIVES

(Government Code Section 11346.2(b)(5)(A) requires a description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific action or procedures, the imposition of performance standards shall be considered as an alternate. It is not the intent of this paragraph to require the agency to artificially construct alternatives or describe unreasonable alternatives.)

No reasonable alternatives were considered as the proposed regulations are administrative in nature, and consistent with interested party input and are either non-regulatory in nature, practical measures to assist the public, or required by Building Standards Law.

REASONABLE ALTERNATIVES THE AGENCY HAS IDENTIFIED THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

(Government Code Section 11346.2(b)(5)(B) requires a description of any reasonable alternatives that have been identified or that have otherwise been identified and brought to the attention of the agency that would lessen any adverse impact on small business.)

No alternatives were identified that would lessen any adverse impact on small business. Small businesses will not experience an adverse impact due to these amendments.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS.

(Government Code Section 11346.2(b)(6)(A) requires the facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business)

CBSC did not identify facts, evidence, documents, testimony, or other substantiation to make an initial determination of significant adverse economic impact on businesses.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

(Government Code Sections 11346.3(b)(1) and 11346.5(a)(10))

CBSC has assessed whether or not, and to what extent this proposal will affect the following:

- ☐ The creation or elimination of jobs within the State of California.

This regulation will not affect the creation or elimination of jobs within the State of California.

- ☐ The creation of new businesses or the elimination of existing businesses within the State of California.

This regulation will not affect the creation or elimination of existing businesses within the State of California.

- ☐ The expansion of businesses currently doing business with the State of California.

This regulation will not affect the expansion of businesses currently doing business with the State of California.

- ☐ The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

These regulations will update and clarify minimum administrative building standards, which will provide increased protection of public health and safety, worker safety and the environment.

ESTIMATED COST OF COMPLIANCE, ESTIMATED POTENTIAL BENEFITS, AND RELATED ASSUMPTIONS USED FOR BUILDING STANDARDS

(Government Code Section 11346.2(b)(6)(B) states if a proposed regulation is a building standard, the initial statement of reasons shall include the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates.)

CBSC did not identify any costs to comply with the proposed amendments. The amendments provide clarity and regulatory consistency for the code user.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

(Government Code Section 11346.2(b)(7) requires a department, board, or commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshal to describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from these federal regulations upon a finding of one or more of the following justifications: (A) The differing state regulations are authorized by law and/or (B) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment.)

There are no federal regulations concerning state agency adoption and/or amendment of administrative procedures. References to California administrative provisions are found in HSC §18929; 18929.1; 18930.5(b); 18931(f).